

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

SENATE BILL

No. 1235

Introduced by Senator Bowen

February 6, 2006

An act to amend Section 15360 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1235, as amended, Bowen. Elections.

Existing law requires the Secretary of State to establish the specifications and the regulations governing voting machines, voting devices, and any software used, including the programs and procedures for vote tabulating and testing. The Secretary of State may not approve any voting system that does not fulfill statutory and regulatory requirements.

Existing law requires, during the official ~~canvass~~ *canvass* of every election in which a voting system is used, a public manual tally of the ballots tabulated by those devices cast in 1% of the precincts chosen at random by the elections official.

This bill would provide that the tallied ballots include the absent voter's ~~voters'~~ ballots and would also require the elections official to use either a random number generator or other method specified by the Secretary of State to randomly choose the initial precincts subject to the public manual tally. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The bill would also require a 5-day notice to the public of the time and place of the manual tally and the selection of the initial precincts

and would require the elections official to include a specified report on the results of the public manual tally.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15360 of the Elections Code is
2 amended to read:

3 15360. (a) During the official canvass of every election in
4 which a voting system is used, the official conducting the
5 election shall conduct a public manual tally of the ballots
6 tabulated by those devices, including absent~~voter's~~ voters'
7 ballots, cast in 1 percent of the precincts chosen at random by the
8 elections official. If 1 percent of the precincts should be less than
9 one whole precinct, the tally shall be conducted in one precinct
10 chosen at random by the elections official.

11 In addition to the 1 percent count, the elections official shall,
12 for each race not included in the initial group of precincts, count
13 one additional precinct. The manual tally shall apply only to the
14 race not previously counted.

15 Additional precincts for the manual tally may be selected at the
16 discretion of the elections official.

17 (b) If absentee ballots are cast on a direct recording electronic
18 voting system at the office of an elections official or at a satellite
19 location of the office of an elections official pursuant to Section
20 3018, the official conducting the election shall either include
21 those ballots in the manual tally conducted pursuant to
22 subdivision (a) or conduct a public manual tally of those ballots
23 cast on no fewer than 1 percent of all the direct recording
24 electronic voting machines used in that election chosen at
25 random by the elections official.

1 (c) The elections official shall use either a random number
2 generator or other method specified in regulations that shall be
3 adopted by the Secretary of State to randomly choose the initial
4 precincts or direct recording electronic voting machines subject
5 to the public manual tally.

6 (d) *The manual tally shall be a public process, with the official*
7 *conducting the election providing at least a five-day public notice*
8 *of the time and place of the manual tally and of the time and*
9 *place of the selection of the precincts to be tallied prior to*
10 *conducting the tally and selection.*

11 (e) *The official conducting the election shall include a report*
12 *on the results of the 1 percent manual tally in the certification of*
13 *the official canvass of the vote. This report shall identify any*
14 *discrepancies between the machine count and the manual tally*
15 *and a description of how each of these discrepancies was*
16 *resolved. In resolving any discrepancy involving a vote recorded*
17 *by means of a punchcard voting system or by electronic or*
18 *electromechanical vote tabulating devices, the voter verified*
19 *paper audit trail shall govern if there is a discrepancy between it*
20 *and the electronic record.*

21 SEC. 2. If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.